REMARKS

Claims 1-17 are pending in the present application. The applicant respectfully requests reconsideration and allowance of the present application in view of the above amendments and the following remarks.

Claim for Priority

The applicant notes with appreciation the acknowledgement of the claim for priority under section 119 and the notice that all certified copies of the priority documents have been received.

Information Disclosure Statement

The applicant acknowledges and appreciates receiving a copy of the form PTO-1449 submitted with the Information Disclosure Statement filed on December 9, 2003, which the Examiner has properly initialed to indicate consideration of the cited document.

Rejection under 35 U.S.C. § 102

The Examiner has rejected claims 1-8 and 11-15 under 35 U.S.C. § 102(b) as being allegedly anticipated by United States Patent No. 6,047,234 to Cherveny et al. ("Cherveny"). Applicants respectfully traverse this rejection. However in an effort to expedite prosecution, and in no way acquiescing to the current rejections, Applicants have amended claims 1, 6, 11, and 15 to better recite the invention.

In particular, Applicants have amended claims 1, 6, 11, and 15 to recite that "the accuracy information includes at least generating-time information indicating a generating time when the vehicle position path is detected." This feature is not disclosed in Cherveny.

Cherveny discloses data collection vehicles 50 equipped with data collection systems 39 that each include one or more sensors capable of collecting data representing physical features about the

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environment of the vehicle or the vehicle's physical position and the vehicle is moving or while it is stopped. The data collection vehicles 50 communicate this data derived from their data collection systems 39 to a central geographic data manager 10 using suitable communications links 49. (See, e.g., Cherveny, column 4, lines 26-49, and FIG. 1.) However, while Cherveny does disclose collecting data about the physical features around the vehicles 50, it discloses nothing about gathering or sending data regarding the time when a given vehicle path is detected.

In contrast, Applicants claimed invention does collect generating-time information, which it can use to improve the accuracy of its geographical corrections. For example, when a map evaluation device receives difference information, it can compare the generating time when the vehicle position path was determined (which vehicle position path resulted in the creation of the difference information) and decide whether that generating time is not recent enough for the difference data to be considered valid. This could be done by comparing the generating time when the vehicle path was determined to a set threshold time.

In this way old difference information could be ignored, or at least given a lesser weight, and a more accurate map update could be provided. For example, older difference information might disclose a detour that occurred during temporary road repairs or construction. After such a detour was no longer in use, difference data regarding that detour would not be relevant. Thus, the older data should be discarded. Of course if the detour was still in place, more recent difference data would indicate it was still in use and any map updates would be adjusted accordingly to indicate the presence of a detour. In this way the system can ensure that map updates remain accurate.

Thus, for at least the reasons given above, Cherveny does not disclose every feature recited in amended claims 1, 6, 11, and 15. Claims 1-5 each ultimately depend from claim 1 and are allowable for at least the reasons given above for claim 1; Claims 7 and 8 each depend from claim 6 and are

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allowable for at least the reasons given above for claim 6; Claims 12-14 each ultimately depend from claim 11 and are allowable for at least the reasons given above for claim 11.

Based on the above amendments and remarks, Applicants submit that claims 1-8 and 11-15 are fully distinguishable from Cherveny. Applicants therefore respectfully request that the Examiner withdraw the rejection of claims 1-8 and 11-15 under 35 U.S.C. § 102(b) as being allegedly anticipated by Cherveny.

Rejection under 35 U.S.C. § 103

The Examiner has rejected claims 9, 10, 16, and 17 under 35 U.S.C. § 103(a) as being allegedly unpatentable over Cherveny in view of United States Patent No. 6,453,233 to Kato ("Kato") and United States Patent No. 6,662,105 to Tada et al. ("Tada"). Applicants respectfully traverse this rejection.

Claims 9 and 10 depend from claim 6 and are allowable for at least the reasons given above for claim 6. Nothing in Kato or Tada cures the deficiencies in Cherveny noted above. In particular, although Kato does disclose the use of map version information, this is not the same as generating-time information, nor should it be used to render such a feature obvious. In Kato a controller 5 of a navigation apparatus 3 mounted on a vehicle informs an external information center 1 via a communication unit 7 the version information of the map data used by that navigation apparatus 3. The center 1 then judges whether the map data currently used in the navigation apparatus is the up-to-date version or not based on the received version information. (See, e.g., Kato, from column 4, line 30, through column 5, line 3. and FIG. 1.)

However, the version information is a fixed value that does not change. Determining the version information cannot be equated to determining generating-time information indicating a generating time when a vehicle path is detected.

Tada likewise fails to disclose or suggest this feature.

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With regard to claims 16 and 17, although Applicants traverse this rejection, in an effort to expedite prosecution, and in no way acquiescing to the rejection, they have amended claims 16 and 17 to better recite the invention. In particular, claims 16 and 17 have been amended to recite that when the version of the map database is determined to be latest and the degree of position detection is determined to be the given degree or above, the difference accuracy determining means determines that the degree of accuracy for the difference information is the proper degree and then causes a command to be output for updating the map database based on the difference information," and that "when the version of the map database is determined to be not latest or the degree position detection is determined to be not the given degree nor above, the difference accuracy determining means determines that the degree of accuracy for the difference information is not the proper degree and causes no command to be output for updating the map database based on the difference information." Neither of these features are disclosed or suggested by any of Cherveny, Kato, or Tada.

In particular, none of these documents discloses or suggests that a command output for updating a map be output when a degree of position detection is the proper degree. In addition, none of these documents disclose or suggest that no command be output when either a version of a map database is determined to be not the latest version or a degree position detection is not of a desired degree. no motivation to combine the teachings of Kato or Tada with those of Cherveny.

Furthermore, the Examiner has provided no proper motivation to combine the teachings of Kato or Tada with those of Cherveny. It is not sufficient to maintain a rejection for the Examiner to simply identify each claimed element in cited references. Rejecting claims based solely on the Examiner finding corollaries for the claimed elements would permit the Examiner to reconstruct the claimed invention by picking references from diverse arts and using

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Appellant's invention as a blue print to make the combination. And such an approach is not permissible.

In order to prevent the use of hindsight based on the invention, the Examiner must show a motivation to combine the cited elements – some reason that a skilled artisan confronted with the same problems as the inventor and with no knowledge of the claimed invention would select the elements from the cited prior art references for combination in the manner claimed. But it is not sufficient for the Examiner to issue a simple invocation of skill in the art. If such a rote invocation were sufficient to supply a motivation to combine, most areas of technology would rarely experience a patentable technical advance. The requirement of a suggestion to combine stands as a critical safeguard against hindsight analysis and rote application of the legal test for obviousness.

In this obviousness rejection the Examiner has asserted that one of ordinary skill in the art would have recognized that the differences noted by the system of Cherveny could be introduced as the result of an outdated map database. However since the data sent from the data collection vehicles 50 to the central geographical database 20 in Cherveny is data representing physical features about the environment of the vehicle or the vehicle's position as the vehicle is moving or is stopped, this does not make sense. The data sent in Cherveny is not from a map database, and so has no set date. Neither Kato nor Tada provide a teaching that gathered data be given a time stamp. It was Applicant's suggestion that accumulated data should have a generating time associated with it to indicate when it was gathered. And it is improper to use Applicant's own teaching in an obviousness rejection.

Because the Examiner did not provide a proper motivation to combine, based on the some teaching in the prior art, Applicant asserts that the Examiner engaged in hindsight analysis,

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improperly using Applicant's own claimed invention to provide the motivation to combine the cited references.

Based on the above amendments and remarks, Applicants submit that claims 1-8 and 11-15 are fully distinguishable from Cherveny. Applicants therefore respectfully request that the Examiner withdraw the rejection of claims 1-8 and 11-15 under 35 U.S.C. § 102(b) as being allegedly anticipated by Cherveny.

New Claims

By this response Applicants have added new claims 18-21, dependent from claims 1, 6, 11, and 15, respectively. Each of these claims further defines the recited device. Support for these claims can be found, for example, in steps S150 and S210 in FIG. 2 of Applicants' drawings and related portions of the specification.

Applicants respectfully request consideration of these new claims.

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Conclusion

In view of the foregoing, the applicant respectfully submits that the present application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

Please charge any unforeseen fees that may be due to Deposit Account No. 50-1147.

Respectfully submitted,

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